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Defendant. )

This action has been certified as a Rule 23(b)(2) class action. The class members include those who have filed separate actions against the Defendant; and all class members will be bound by the liability determination in this case,

whether it is favorable or unfavorable to them.<sup>1</sup>

Notice to class members is not required in a Rule 23(b)(2) action; and in light of the parties' apparent inability to agree on an appropriate notice to the class, the Court hereby exercises its discretion *not* to require that notice be given.

The Defendant's Motion to Clarify Class Action Ruling is hereby DENIED.  
(See Doc. 97.)

Done this 2<sup>nd</sup> day of August, 2005.

A handwritten signature in black ink, appearing to read "U.W. Clemon", written in a cursive style.

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U.W. Clemon  
Chief United States District Judge

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<sup>1</sup> The class members who have filed separate actions against the Defendant retain their right to seek compensatory and punitive damages in addition to equitable relief, in the event that the class prevails on the liability issue.